IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

Crl.MC.No. 122 of 2007()

CC.653/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ALATHUR
CRIME NO.72/04 OF ALATHUR POLICE STATION.

.....

PETITIONERS:

---

1. AYYAPPAN, S/O. ACHUTHAN EZHUTHACHAN,
KIZHAKKEKKARA VEEDU,
CHANTHAPPURA, PUTHEUKKODU,
ALATHUR TALUK.

2. K.N. NARAYANAN,
S/O. MADHAVAN,
PADATH VEEDU,
ATHIPOTTA,
THARUR,
ALATHUR TALUK.

BY ADV. SRI.SAIJO HASSAN

RESPONDENTS:

STATE OF KERALA, \
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SMT. LATHA.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 122 OF 2007

Dated this the 16th day of January, 2007

ORDER

The petitioners are accused 3 and 4 in a prosecution, inter alia, under Secs.283, 188 and 341 read with Sec.149 of the IPC. The case was registered as early as in 2004. When ultimately the matter came up for trial on 11/12/06, the petitioners were not available. The learned Magistrate rejecting the application to excuse the absence of the petitioners has issued non-bailable warrants, it is submitted. The petitioners now want to surrender before the learned Magistrate. The petitioners apprehend that their application for bail may not be considered on merits, in accordance with law and expeditiously by the learned Magistrate. They have hence come to this Court with a prayer that directions under Sec.482 of the Cr.P.C. may be issued in favour of the petitioners to the learned Magistrate to release them on bail when they appear and apply for bail.

2. I find no merit in the prayer at all. It is for the petitioners to appear before the learned Magistrate and

explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioners' application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioners surrender before the learned Magistrate and seek bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

HO
Nan/

//true copy// **P.S. To Judge**